BOMBAY ACT No. XV OF 1938.[1]

[THE INDIAN LUNACY (BOMBAY AMENDMENT) ACT, 1938.]

[*24th June 1938.*]

An Act to amend the Indian Lunacy Act, 1912,[2] in its application to the Province of Bombay.

IV of 1912. WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Lunacy (Bombay Amendment) Act, 1938.

IV of 1912. Insertion of new section 33A in Act IV of 1912. **2.** In the Indian Lunacy Act, 1912, after section 33, the following new section shall be inserted, namely:—

Temporary release of lunatics. "33A. (*1*) When any relative or friend of a lunatic detained in any asylum under the provisions of section 7, 10, 14, 15 or 17 is desirous that such lunatic shall be temporarily released and delivered over to his care and custody, he may make an application to the person in charge of the asylum, who shall make an order forthe temporary release of such lunatic for a period not exceeding sixty days, unless for any reason he considers that such release is undesirable and such lunatic shall, thereupon, be so released.

(*2*) No order under sub-section (*1*) for the temporary release of a lunatic detained under section 7 or 10 shall be passed except on an application of the petitioner on whose petition such lunatic was detained or without the consent in writing of such petitioner:

Provided that, if in any such case, it appears to the person in charge of the asylum that such petitioner refuses, without sufficient reasons, to accord such consent, he shall refer the application made to him under sub-section (*1*), to the magistrate who would have jurisdiction to detain such lunatic under section 7 or 10 and such magistrate may, after making such enquiry as he thinks fit, order the temporary release of such lunatic for the period specified in sub-section (*1*).

(*3*) Any order made for the release of a lunatic under sub-section (*1*) may, on the application of any relative or friend, at any time during the period of his release, be set aside, or varied by the magistrate who would have jurisdiction to detain such lunatic in an asylum under section 7, 10, 14, 15 or 17 on any ground other than that the lunatic was not in a state of mind fit to be released at the time the order for his release was made under sub-section (*1*). If the order of release is so set aside, the lunatic shall be re-admitted and detained in the asylum.

(*4*) If a lunatic released under sub-section (*1*) or (*2*) is, at any time during the period of his release, found to be unmanageable or dangerous and unfit to be at large, the person who applied for his release may take the lunatic to the asylum, and such lunatic shall thereupon be readmitted and detained in the asylum.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 301 and 302; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, pp. 1814–1828, 1918, 1954–1961 and 2565; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, pp. 319–321.

[2] *See* Unrepealed Central Acts, Vol. VI, p. 118.

(*5*) If a lunatic released under sub-section (*1*) or (*2*) does not return to the asylum at the expiration of the period for which he was released and if no order for his discharge has been passed under section 31 or section 33 or if he is, at any time during the period of his release, found to be unmanageable or dangerous or unfit to be at large and the person who applied for his release states by a written application to the person in charge of the asylum that he is unable to bring him to the asylum such lunatic shall be deemed to have escaped from the asylum and may at any time within one month after the expiration of the said period be re-taken to and detained in the asylum in the manner provided in section 36 :

Provided that such a person shall be deemed to be discharged if on or before the expiry of the period for which he was released, the Board of Visitors is satisfied either (*a*) as a result of investigations conducted by the person in charge of the asylum concerned or (*b*) on receipt of a certificate signed by a medical practitioner that the person may with safety be discharged."